



COUNTY OF MONTGOMERY

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September 3, 2010

OVERNIGHT DELIVERY VIA FEDERAL EXPRESS

ENTERED
Office of Proceedings

SEP 8 - 2010

Part of
Public Record

Surface Transportation Board
395 E Street S. W., Room 100
Washington, DC 20423

**Re: STB Docket No. AB-1020 1 X. East Penn Railroad, LLC - Abandonment
Exemption – Bridgeport Borough and Upper Merion Township, Montgomery
County, Pennsylvania**

Chief, Section of Administration Office of Proceedings, Cynthia Brown

Attached for filing are the original and ten copies of a Petition for Certificate of Interim Trail Use and Public Use Condition pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1002.2(e). Attached is a check covering the \$250.00 filing fee which, Montgomery County, Pennsylvania, a local government entity, requests to be waived and refunded. I am also enclosing an extra copy of the petition which I ask that you time stamp and return in the enclosed self addressed stamped envelope. If you have any questions, please contact me at (610) 278-5136 or tmeyer@montcopa.org.

Sincerely,


R Touhey Myer, Esquire
Assistant County Solicitor

Enclosures
cc: Karl Morell (w/enclosures)

ORIGINAL FILED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO AB-1020 1 X

EAST PENN RAILROAD, LLC
ABANDONMENT EXEMPTION
IN MONTGOMERY COUNTY, PENNSYLVANIA

**PETITION FOR NOTICE FOR INTERIM TRAIL USE AND PUBLIC USE
CONDITION**

FILING FEE WAIVED

ARD

MONTGOMERY COUNTY, PENNSYLVANIA

Dated: September 3, 2010

ENTERED
Office of Proceedings

SEP 8 - 2010

Part of
Public Record

R Touhey Myer

ATTORNEY FOR:
MONTGOMERY COUNTY, PENNSYLVANIA

FILED
SEPT 8 - 2010
SURFACE
TRANSPORTATION BOARD



**BEFORE THE
SURFACE TRANSPORTATION BOARD**



STB DOCKET NO. AB-1020 1 X

**EAST PENN RAILROAD, LLC
ABANDONMENT EXEMPTION
IN MONTGOMERY COUNTY, PENNSYLVANIA**

PETITION FOR INTERIM TRAIL USE AND PUBLIC USE CONDITION

Montgomery County, Pennsylvania, a local government entity of the Commonwealth of Pennsylvania, (hereinafter referred to as "Proponent") is interested in acquiring the right of way for interim trail use and rail banking under the National Trails System Act, 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, of a rail corridor in Montgomery County, which is proposed for exemption from abandonment in STB DOCKET NO. AB-1020 1 X.

While not taking a position on the merits of this abandonment, Proponent requests issuance of a Notice of Interim Trail Use and Public Use Condition, rather than an outright abandonment authorization, for the portion of the rail corridor of East Penn Railroad, LLC, that is located in Montgomery County, Pennsylvania, between Mileposts 0.0 and 2.0, (hereinafter referred to as "The Line") between Bridgeport Borough and Upper Merion Township. Proponent further requests an issuance of a Public Use Condition.

A. Request for Interim Trail Use

The railroad right of way in this proceeding is suitable for rail banking. In addition to the public use conditions sought below, Proponent states and requests the following:

FINANCIAL RESPONSIBILITY

1. In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, Proponent, Montgomery County, Pennsylvania is willing to assume full responsibility to manage the right of way to be abandoned, to indemnify East Penn Railroad, LLC, its successors and assigns, for any legal liability arising out of the transfer or use of the right of way to be abandoned, and to pay any taxes levied or assessed against the right of way owned by East Penn Railroad, LLC and acquired by Proponent.
2. The right of way to be abandoned extends between milepost 0.0, at Bridgeport and milepost 2.1 at Upper Merion in Montgomery County, Pennsylvania. Montgomery County requests a right of way and Notice of Interim Trail Use and Public Use Condition for the portion in Montgomery County, Pennsylvania between mileposts 0.0 and 2.0, which is a distance of 2 miles. A map of the Line is attached.
3. Proponent acknowledges that use of the right of way is subject to the user continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right of way for rail service.

A copy of this statement is being served on East Penn Railroad, LLC on the same date it is being served on the Board.

B. Request for Public Use Condition

Proponent requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. The justification for this condition is that the rail corridor passes through scenic routes that connect the trail system that is an integral part of Proponent's open space and primary trail plans. It would provide important wildlife habitat and greenspace preservation as a recreational trail consistent with that plan.

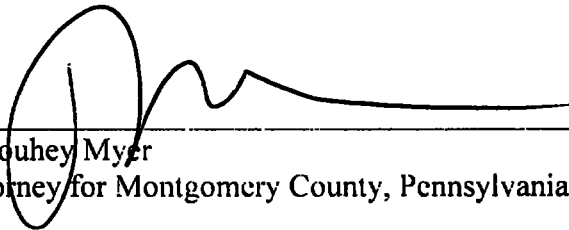
2. The time period sought is between 90 to 180 days from the effective date of the abandonment authorization. Proponent needs this period of time to assemble and review survey and mapping information and to settle negotiations with the East Penn Railroad, L.I.C.

3. An order barring-removal or destruction of potential trail-related structures such as bridges, trestles, culverts, and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is between 90 to 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

A filing fee of \$250.00 is enclosed with this Petition. Proponent is a local government entity, and pursuant to 49 C.F.R. § 1002.2(e), hereby requests a waiver of this filing fee and prays for it to be refunded to Proponent.

By my signature below, I certify service upon Karl Morell of Counsel, Ball Janik, LLP 1455 F Street, N.W., Suite 225, Washington, DC. 20005, by Federal Express delivery, on September 3, 2010.

Respectfully submitted,
MONTGOMERY COUNTY SOLICITOR'S OFFICE



R Touhey Myer
Attorney for Montgomery County, Pennsylvania

Montgomery County, PA Request for Interim Trail Use: East Penn Railroad - 2 Miles Railbanked

